4:Michey E-5 (1940-?)1947 AE5 Miso AE5

621 were the elders, men who stood at the head of groups of closely related families, known as *pao*. There were three *pao* in Yang-chia-sai, and hence three elders, who formed the village council. Disputes within the family were settled, if possible, in the family, in the *pao* within the *pao*. Disputes within the village between members of different *pao* were ordi-
621 narily settled by the three elders. If, however,
648 they were unable to effect a settlement, the litigants had the right to carry their dispute to the next higher official, the *lien pao chang*,[1] who was a Chinese, and so on up to the Chinese court in the *hsien* city.

276 **Legal Difficulties.** When I went back to
689 the village for the second period of residence,
648 the first of February, 1942, I found that the old man's son, Cheng-hsiang, had been in
123 prison in Lung-li for two weeks. He had gone to collect the price of some rice sold to two families in the city. At the second house he had been arrested in an opium raid and held on the charge of opium smoking. On the sixth I went to the *hsien* magistrate's office on his behalf and found that he had been sent to the local Health Station for observation. The man in charge there was called in. He said Cheng-hsiang would be released and cleared of the charge at the expiration of the required period of observation. On the afternoon of the eighth he was allowed to go home for clean clothing. On the tenth he was released and cleared of the charge.

661 This same young man went during the last
648 week in June to a place to the east to sell some
123 pork. Upon the homeward way he was robbed by soldiers of the proceeds of the sale and carried off. His companion, who had carried the pork, escaped and went into hiding for a while. They could find out nothing about Cheng-hsiang until a letter came from him, saying that he was held at the point where the motor road forked, one fork going to Hunan, the other to Kwangsi. I went to the *hsien* magistrate for him, as they hesitated to go alone to the *hsien* office and felt in this case that my presence might obtain a better reception there for them, and was told to have them send in an official statement, which

[1] The head official of the *lien pao*.

4:Mickey E-5 (1940-7)1967 AE5 Miao AE5

661 they did. But before anything could be done
648 he had been taken to Kwangsi. Later his
123 captors took him to Hunan. He was well treated and not forced to become a soldier, but served the commanding officer as a secretary. He was later released. I like to think that a letter I wrote to a friend high in the provincial government had something to do with his release before the soldiers were due to return to Kweichow. It was not until after the rice harvest that his family sent him traveling expenses so that he might come home. He arrived in Lung-li on the third of December.

648 On the eighteenth of November I was asked
123 to go to the *hsien* magistrate for them again.
685 This time a relative by the name of T'ang was being detained on complaint of some Chi-
661 nese. This man owned a wooded slope. The Chinese, wishing to take advantage of the great demand for charcoal as fuel for motor vehicles, either had or wanted to set up a charcoal depot in Lung-li. They asked this man to make his wood into charcoal for them. No agreement was made, but they had him arrested to be held until he could produce fifty thousand *chin*,[2] more than sixty-six thousand pounds. What they wanted me to do was to urge the *hsien* magistrate to investigate the matter quickly so that the man could be released. This I did. But when the *hsien* magistrate said he could be released if two would go surety for him, and they asked me to be one of his guarantors, I refused, for I had never seen the man and could not find out what it meant to be a guarantor under such circumstances in China.

After I had gone into the *hsien* city to live they continued to ask me to help them. Upon one occasion I was asked to urge the *hsien* magistrate to hasten his investigation of a case in which a Miao had accused some Chinese of stealing logs from his house while only his wife and children were at home. The Chinese said that he had sold them the logs before felling the trees on a hillside he owned and that they were only taking what already belonged to them. I was asked to urge the magistrate to investigate the matter before the Chinese should have time to convert the

[2] One and one-third pounds.

4:Mickey E-5 (1940-?) 1947 AE5 Miao AE5

timber into agricultural implements, and did so. I have never found out what the truth of the matter was, but the Miao lost his case because the *hsien* judge found that his witnesses had not told the truth at other points.

Another case was that of a Miao who had become so angry at his wife that he had her jailed. Her relatives wanted to have her released so that her child need not be born in prison. The husband had disappeared and could not be found to ask him to change his mind. I wrote to the magistrate in the next *hsien*, and after his condition that some merchant in the city go surety for her was met, she was released.

A family in Shang-sai wished to build a house. The head of the family borrowed money from his brother. This brother later brought suit for the return of some of the loan. This was paid at the *hsien* offices on the day set, but the brother did not appear to receive it. Later the family who had received the loan sued the brother for the expense to which they had been put because of his failure to come and receive the payment on the day set.

These, of course, were only a few of the disputes which arose in the village or among the whole group of Cowrie Shell Miao. Most small matters were settled among themselves. Much of the old man's time was taken up with such cases. Sometimes others of the village elders were called in for consultation. This was according to the Chinese Government system, though in effect this formed the village government, or council. If matters could not be settled by them, they were taken before the *lien pao* official, and, if necessary, to the *hsien* magistrate.

Economic Institutions. Within Cowrie Shell Miao society there were no specific economic institutions. Families formed economic units, and as such carried on trade with Chinese merchants and rice brokers in the *hsien* city. Just inside the walls were a few tea-shops owned by city-dwelling Cowrie Shell Miao, conveniently situated for visiting country kinfolk to gather before they returned to their villages from market. The shop keepers were gardeners and farmers as well, and much of their trade was really a form of family visits. In their shops, as well

7: Clarke M-3 (no date) 1911 AE5 Miao AE5

Miao are ruled much in the same way as the Chinese who live in villages and hamlets.

The Miao are, we have many reasons to think, more litigious than the Chinese, constantly going "to have the law" on some one, or some one going "to have the law" on them. In many cases the affair is brought before the local headman, but on these occasions it is difficult to satisfy both parties, and the loser is almost certain to carry the case before the district magistrate. It is amazing to note how much of their time and money these people spend in legal proceedings, and very often fail to get justice after all. But it is a point of honour with them, and they think it due to themselves and their reputations to fight a case to the bitter end.

This love of litigation is encouraged by the secretaries and underlings in the various Yamen, who depend for their living principally on the law cases, civil and criminal, brought before the magistrate. If there were no litigation these men would starve. Thus cases that have been settled, and possibly justly settled, by the headman, can always be reopened before the district magistrate, and cases settled by one magistrate can be retried by his successor. This is not from any love of justice, but for the

7; Clarke M-3 (no date) 1911 AE5 Miao AE5

691 sake of the bribes, squeezes, and fees that are
661 to be obtained from the litigants. The average incumbency of a district magistrate in Kweichow is not, we think, over twelve months.

Not only do the Yamen people profit by the cases brought before the magistrate, but very often underlings, and others in league with the Yamen, foment litigation and exhort the simple country-folk to take their grievances, or reopen their cases, before the magistrate. The longer a case lasts, and the more people can be drawn into it, the more profit there is for the Yamen. Very often cases are trumped up and false accusations made, and even if the accused finally obtains a verdict in his favour, it will only be after he has been mercilessly squeezed by these harpies. Probably on account of their ignorance and the lack of men among them with literary degrees, which would give them the privilege of interviewing the magistrate, the Miao are even more squeezed than the Chinese. Yamen secretaries, however, are neither partial nor particular, but always willing and zealous to extort money from everybody they can lay their hands on.

594 Among the Miao nearly all the disputes
586 arise on account of their land or their women. They recognise the marriage relation, but do